Remarks

Independent Claims 1 and 20, and most of the dependent claims acted upon, stand rejected as being anticipated by Vayda et al. (5,745,717). Claims 11, 13 and 30 stand rejected as having been obvious to one of ordinary skill in the art over Vayda et al. in view of Kinawi et al. (6,545,669). Claims 39 and 40 are newly submitted.[1] It is respectfully submitted that all of the presently pending claims are clearly novel and nonobvious over the prior art.

Although arguments patentably distinguishing the invention over the prior art have previously been presented, Applicant should like to emphasize the following point, in particular: In accordance with Vayda et al., the selection and execution of commands requires that movement be started from a predetermined central region, and then be effected in a predetermined direction. There is no option to respond to movement independent of the location within the communication region at which such movement commences. The Examiner has responded to those facts by commenting, on page 6 of the Action:

> Notice that finger on touch pad, mouse are user-controlled pointing device independent of the location within said communication region at which movement along said predetermined bearing commences versus key board dependable on location.

[1] Claim 39 is based, for example, on Figures 2, 3, 6-8, 15 and 16 of the specification, together with the corresponding text; Claim 40 is based upon the passage bridging pages 14 and 15 of the specification.

All claims of the application now require selection of a desired symbol to be effected by movement of a user-controlled pointing device *on or proximate*[2] *the surface* of the communication region. Thus, a touch pad (that does not itself include a communication region, as herein defined), a mouse, or another form of remote device does not constitute a "user-controlled pointing device," as presently defined in Claims 1, 20, and 39. It is irrefutable that Vayda et al. do **not** teach or suggest any user-controlled pointing device that is independent of the location, within the communication region, at which movement commences.

In the instant Office Action, the Examiner has drawn attention to Figures 3-6 and 8-11 of Vayda et al., and particularly to Figure 5. Applicant submits that Figure 5 is not a good example because it does not show, and the corresponding text does not explain, how a user-controlled input device is employed in relation to the focus position 504 and command indicator sectors 514. An input device is shown in the embodiment of Figure 7, but it is not mentioned in the corresponding text and there is no explanation there as to how it is employed.

Figure 3, on the other hand, shows the basic principles of Vayda et al. and the corresponding text explains how the system works. As discussed in column 6, at lines

[2] This language accommodates movement of the pointing device either out of contact with, or above, the surface, as disclosed, for example, at lines 33 to 36 on page 11 of the specification, and at lines 12 to 22 on page 13.

23-51, menu screen 300 comprises a select/execute menu 302, which in turn comprises a focus position 304. A plurality of select/execute command selectors are radially distributed about the focus position 304, as depicted in Figure 3 by large dots.

As explained in column 7, at lines 9-51, the select/execute menu 302 initially has a highlighter 306 placed at, or substantially at, the focus position 304. Movement of user input device 106 (preferably a mouse, as disclosed in column 4, at lines 41-51, and depicted in Figure 1 as a remote computer mouse) moves the highlighter 306 radially from its initial position, at focus position 304, to a command selector 308 in the radial direction most closely correlated to the movement of the user input device 106. That is, in Figure 3 movement of the user input device 106 causes the highlighter 306 to cease highlighting the focus position 304 and instead to highlight the displayed word "EDIT," or a region surrounding the word "EDIT." When selected, the highlighted command selector 308 is executed. It is acknowledged that Vayda et al. allows for some variation in angle, but movement of the highlighter 306 in a radial direction from a focus position 304 is required at all times.

Vayda et al. point out that their system can be difficult to use. For example, it is explained in column 8, at lines 27-49, that errors may occur due to sensitivity to movement of the user input device 106. Consequently, simple movement of the input device 106 may not cause execution of the highlighted command selector 308 without further action.

Figure 4 of Vayda et al. shows a focus position 404; Figure 6 has a central "ALTER FILE MENU" position; Figure 7 shows a focus position 704; Figure 8 has a central "FILE MGT" position; Figure 9 has a central "FILE MGMNT" position indicated by highlighter 906, the highlighter being transferred to a command selector on movement of the user input device 106; Figure 10 has a central "FILE MGT" position; Figure 11 has a central focus position 1104; Figure 12 has a central focus position 1204; Figure 13 has a substantially central focus position 1304; Figure 14 has a central focus position 1404; Figure 15 has a central focus position 1504; Figure 16 has a central focus position 1604; Figure 18 has a central focus position 1804; Figure 19 has a central focus position 1904; and Figure 20 has a central focus position 2004.

The disclosure and teaching of Vayda et al. are therefore only of a system that has a substantially central focus position, and only that movement of a user-controlled input device, in a radial direction from the central focus position, causes selection of a command selector. Although some flexibility in the radial direction selected is permitted, the requirements are invariably to start at the central focus position, and to move in a radial direction.

Thus, Claim 1 (and the other independent claims), as currently presented, are novel over Vayda et al. for a number of reasons; most fundamentally:

> (1) Applicant's claims require movement along a bearing parallel to a direction of the desired symbol relative to a central region of the communication region; and

(2) Applicant's claims require that the system be responsive to the user-controlled pointing device independent of the location within the communication region at which movement along the predetermined bearing commences.

With regard to reason (1), according to the *Shorter Oxford English Dictionary*, for example, the word "parallel" means "lying or extending alongside of one another and always at the same distance apart." Consequently, a bearing that is parallel to a direction based on a central region of the communication region cannot pass through that central region, but instead must lie or extend alongside the central region.

This is obviously contrary to the requirement of Vayda et al. that movement must always start from a central focus position. At no point do Vayda et al. teach or suggest that movement should, or could, start from a position alongside the central focus position.

With further regard to reason (1), Vayda et al. never use the word "parallel," but instead consistently use the word "radial." It is obvious that a bearing that extends radially from given location *cannot* extend parallel to a line through the same location. The two lines must either be coincident -- or they must diverge/converge.

With regard to fundamental reason (2), Vayda et al. always require movement to start from the central focus position; no alternative is taught or suggested. This is directly contrary to Applicant's claims which, once again, require that the system response be independent of the location within the communication region at which movement commences.

New Claim 39 requires the system to comprise a plurality of communication regions, each being substantially in the form of a square and having symbols associated therewith at predetermined locations about the square. In constrast, Vayda et al. do not consider more than a single communication region, and they certainly do not consider the arrangement of symbols set forth in Claim 39. These distinctions are of course in addition to those hereinabove discussed.

New Claim 40 adds to Claim 39 the feature of a visual output corresponding to the symbol or symbols entered. While Vayda et al. provide a command selector, the command, when selected, represents an activity and not a symbol or symbols entered.

The Examiner has not suggested that any claim, other than Claims 11, 13 and 30, would have been obvious to one of ordinary skill in the art. Applicants nevertheless point out that no claim of the application can properly be rejected under 35 U.S.C. 103.

Once again, the clear and unequivocal disclosure and teaching of Vayda et al. is that any movement, for selection and implementation, must extend in a radial direction and must start at a central focus position. All of Applicant's claims, on the other hand, require that movement occur in a direction parallel to a direction based on a central region of the communication system, thus precluding passage through the central region. The term "parallel" and "radial" are mutually exclusive, and the disclo-

sure and teaching of Vayda et al. therefore excludes the subject matter of Claims 1, 20 and 39. Moreover, those claims require the system response to be independent of the location at which movement commences. This is patently inconsistent with the requirement of Vayda et al. that movement must start from the central focus position.

For the foregoing reasons, it is clear that the subject matter of Claims 1, 20 and 39, and therefore the subject matter of all claims, would not have been obvious to one of ordinary skill in the art over the disclosure of Vayda et al. Since Claim 40 is newly presented, however, it might be added that Claim 40 requires a visual output corresponding to the symbol or symbols entered. Vayda et al. teach only the execution of an action based on the selection made, and there is no teaching of or suggestion for the provision of a visual output corresponding to the symbol or symbols entered.

In view of the foregoing, it is manifest that Vayda et al. cannot properly be deemed to have rendered the subject matter of any claim obvious to one of ordinary skill in the art -- much less being anticipated thereby -- and neither Kinawi et al. nor any other prior art cures the fundamental deficiencies of Vayda et al. All claims of the application define an invention that is clearly novel and patentable over the prior art.[3]

A Petition for Extension of Time is enclosed herewith, together with a Form PTO-2038 charge authorization in the requisite amount.

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[3] It is noted that references to "tolerance" have been removed from the claims. They were found to be superfluous, and evidently to have led to confusion.

Passage of the application to allowance is in order, and is earnestly solicited.

Respectfully submitted,
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CERTIFICATE OF MAILING

I, IRA S. DORMAN, hereby certify that this Amendment, Petition for Extension of Time, and Form PTO-2038, are being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed as set forth on the first page hereof, on July 9, 2009.

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cc: Derek Jackson, Esq.
(Ref. No. P0434)